

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

COMMODITY FUTURES TRADING
COMMISSION and SECURITIES
EXCHANGE COMMISSION,

ORDER

Plaintiffs,

v.

20-cv-075-wmc & 20-cv-076-wmc,
Consolidated

EDWARD S. WALCZAK.

Defendant.

This civil case is set for jury trial beginning at 8:30 a.m. on April 11, 2022. Plaintiffs United States Securities and Exchange Commission (“SEC”) and Commodity Futures Trading Commission (“CFTC”) claim that defendant lied to investors about his risk management strategy for an investment fund. The court began its final pretrial conference (“FPTC”) by videoconference today, March 24, 2022. Consistent with its oral rulings during the course of that hearing, the court issues the following order.

ORDER

IT IS ORDERED that:

- 1) Plaintiffs’ motion in limine no. 1 (’75 dkt. #63) regarding Michael De Laval’s testimony is RESERVED. Plaintiffs may have until Friday, March 25, 2022, to file a redlined version of De Laval’s expert report consistent with this court’s prior order. Defendant has until Monday, March 28, 2022, to object to that redlined version.
- 2) Plaintiffs’ motion in limine no. 4 (’76 dkt. #60) regarding reliance and loss causation is RESERVED. Plaintiffs may have until Friday, March 25, 2022, to submit further briefing in support of their assertion that a defendant to an SEC or CFTC complaint may not affirmatively offer evidence of investors’ reliance or loss to establish that his alleged misrepresentations were not material. Defendant has until Monday, March 28, 2022, to respond.

- 3) Plaintiffs' motion in limine no. 10 ('76 dkt. #72) regarding Norman Harrison's testimony is RESERVED. Plaintiffs may have until Monday, March 28, 2022, to file a redlined version of Harrison's expert report consistent with this court's prior ruling. Defendant has until Wednesday, March 30, 2022, to object to that redlined version.
- 4) Defendant's motion in limine no. 11 ('76 dkt. #53) regarding Arthur Laby's testimony is RESERVED. Defendant may have until Monday, March 28, 2022, to file a redlined version of Laby's expert report consistent with this court's ruling. Plaintiffs have until Wednesday, March 30, 2022, to object to that redlined version.
- 5) By Monday, March 28, 2022, parties should provide proposed language on the role of stress testing and the typical investor who would purchase the instruments in question for possible use in an explanatory narrative to be given the jury by the court. Parties may also propose other illustrations, schematics or demonstrative they believe should be added to that narrative.
- 6) The parties have until Monday, March 28, 2022, to provide the court with any additional, updated jury instructions or proposed special verdict form.
- 7) By Monday, March 28, 2022, the parties are to exchange their final proposed exhibit list, with objections to the exhibits due Thursday, March 31, 2022, and copies of any exhibits for which an objection has been interposed to be provided to the court by Friday, April 1, 2022.
- 8) The court will continue the FTPC to address the proposed voir dire, jury instructions, special verdicts and objections to exhibits on Monday, April 4, 2022, at 10:00 a.m. via Zoom videoconference.

Entered this 24th day of March, 2022.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge